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10 real party in interest

11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13 WESTERN DIVISION

14 Sean-David: Morton [sic],

15 CLAIMANT, [a]man,

16 v.

17 SANDRA BROWN, EILEEN  
18 DECKER, JAMES HUGHES,  
VALERIE MAKAWITZ, all successors  
& assignees

19 Defendants and Wrongdoers  
20  
21

No. CV 17-2403

**NOTICE OF REMOVAL OF CIVIL  
ACTION**

[28 U.S.C. §1442(a)(1)]

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1 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL  
2 DISTRICT OF CALIFORNIA AND TO THE PRO SE CLAIMANT:

3 Pursuant to the provisions of 28 U.S.C. § 1442(a)(1), the United States of  
4 America, real party in interest, hereby removes the above-entitled action from the  
5 Superior Court of the State of California, County of Los Angeles, to this Honorable  
6 Court. The grounds for this removal are as follows:

7 1. On March 24, 2017, Sean David Morton (“Morton”) filed a civil complaint, for  
8 injunctive and declaratory relief, in Los Angeles County Superior Court captioned  
9 Morton v. Brown, et al., YS029817. A copy of the Complaint, including all its  
10 attachments received, is attached hereto as Exhibit 1. The Complaint requests that the  
11 State Court enjoin a federal criminal prosecution in this District, United States v.  
12 Morton, et al., CR 15-611 SVW, which is set for trial on April 4, 2017. Morton further  
13 seeks a declaration from the State Court that he had a “non-culpable state of mind” and  
14 therefore should not be prosecuted and that the United States Attorney’s Office for the  
15 Central District of California should be estopped to deny this.

16 2. This action is one which may be removed to this Court pursuant to 28 U.S.C.  
17 § 1442(a)(1) because the defendants are (1) Acting United States Attorney Sandra R.  
18 Brown; (2) former United States Attorney Eileen M. Decker; (3) Assistant United States  
19 Attorney James Hughes; and (4) Assistant United States Attorney Valerie Makarewicz  
20 (sued as Valerie Makawitz), all of whom are sued in their official capacities as federal  
21 prosecutors.

22 3. In addition, because the suit seeks to prevent the United States from prosecuting  
23 Morton for federal crimes, the suit is against the United States and it is the real party in  
24 interest. See Larson v. Domestic Foreign Corp., 337 U.S. 682, 687 (1949) (if the effect  
25 of judgment would be to restrain the federal government from acting, the suit is against  
26 the United States).

27 4. Defendants Hughes and Makarewicz were served by Morton with the Complaint  
28 (but not with a summons) on or about March 27, 2017. The United States has several

1 federal defenses to this action, see Mesa v. California, 489 U.S. 121, 129 (1989), because  
2 the action is barred by the doctrines of absolute prosecutorial immunity, sovereign  
3 immunity and the supremacy of Federal law. See United States Constitution Article VI,  
4 clause 2 (the “Supremacy Clause”); 18 U.S.C. § 3231 (the district courts of the United  
5 States have exclusive jurisdiction of all offenses against the laws of the United States).

6 5. WHEREFORE, the United States hereby removes this action now pending in the  
7 Superior Court of the State of California, County of Los Angeles, Case No. YS029817,  
8 to the United States District Court for the Central District of California.

9  
10 Dated: March 28, 2017

Respectfully submitted,

11 SANDRA R. BROWN  
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13 Chief, Civil Division  
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16 /s/ David Pinchas  
DAVID PINCHAS  
17 Assistant United States Attorney

18 Attorneys for United States of America  
19 Real party in interest  
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